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HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

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O. Eng.

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STUDY OF A POSSIBLE MINIMUM MILK CONTENT LIMIT
FOR PRODUCTS OF CHAPTER 4
(Item III.A.2 on Agenda)

Reference documents :

NC0400E1 (HSC/27)
NC0430E2, Annex IJ/2 (HSC/27 - Report)
NC0510E2, para. 7 (HSC/28 - Report)
NC0541E1 (HSC/29)
NC0583E1 (HSC/30)

NC0590E2, Annex H/2 (HSC/29 – Report)
NC0655E2, para. 37 and 38 (HSC/30 – Report)
NC0691E1 (HSC/31)
NC0730E2, Annex H/4 (HSC/31 – Report)

I. BACKGROUND

1. At its 29th Session (May 2002), the Harmonized System Committee decided to classify a product (“**Bonnet Bleu**”) containing 68.7% sucrose and 21.3% milk solids non-fat (dry matter) in heading 04.02 (subheading 0402.99). During the discussion of this question, the Delegate of **Cameroon** expressed his concern with regard to this decision since the Committee had classified a similar product (SMD) containing 69% sugar and 29% milk powder in heading 21.06. To his mind it was desirable for the RSC to look into setting minimum milk content limits for the products of Chapter 4.
2. By its letter of 10 July 2002, the **Cameroon** Administration asked the Secretary General to refer the Committee’s classification decision to the Council, in accordance with the provisions of Article 8.2 of the HS Convention. The classification of “**Bonnet Bleu**” will therefore be re-examined at the 32nd Session of the HS Committee (November 2003).
3. At its 31st Session (May 2003), when the Committee discussed the possible conflict between the classification of “**Bonnet Bleu**” and SMD, the Delegate of **Cameroon** was still of the opinion that the RSC should look into this matter and propose a minimum milk content

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limit for products of Chapter 4, in particular since (in her view) SMD contained more milk than “Bonnet Bleu”.

4. By its circular letters of 3 June (English) and 16 June 2003 (French), the Secretariat invited several Contracting Parties to submit comments and/or proposals (before 30 June 2003) in order for the Secretariat to prepare a new document for this Session of the Review Sub-Committee.

II. PROPOSALS FROM ADMINISTRATIONS

5. At the time of preparation of this document, only the Cameroon Customs Administration has responded to the above-mentioned circular letter. The response is reproduced below :
6. “I have the honour to transmit to you a proposal by Cameroon for the amendment of the legal Notes to Chapter 4.
7. The reason for this is that “dairy” products of various origins, containing a minute quantity of milk or milkfat, are beginning to arrive on the market in our country. In order to ensure that this noble product – milk – continues to merit its brand image and its name, Cameroon would like to introduce the following standards for dairy products, including firstly the fact that they should contain at least a certain proportion of milk (30%) in order to be classified in Chapter 4, and secondly that in products containing added sugar, the sugar content should not exceed 50%.
8. Cameroon considers that the introduction of these criteria would contribute towards the uniform application of the HS Nomenclature.
9. The proposed new text could read as follows :

Chapter 4.

Chapter Note 4 (b).

“(b) products with added ingredients, containing less than 30% milk or non-animal fats or more than 50% sugar by weight, calculated on the dry matter (Chapter 19 or 21).”

Existing Note 4 (b) to be renumbered as 4 (c).”

III. SECRETARIAT COMMENTS

10. The proposal from Cameroon for a new exclusion note contains several qualifications. According to the proposal, products of Chapter 4 should contain at least 30% milk. In addition, milk products with added ingredients must contain less than 50% sugar. Finally, products of Chapter 4 should not contain non-animal fats.
11. As regards the element in the proposal referring to non-animal fats, the Secretariat sees no problem with this element since the General Explanatory Note to Chapter 4 already contains a corresponding exclusion (exclusion (b), page 34) referring to oleic fats.

12. As to the proposed 30% limit for milk and the 50% limit for sugar, the Cameroon Administration has given no justification for its proposal. It is therefore difficult for the Secretariat to comment on these elements of the proposal. For that reason, the Cameroon Delegation is invited to clarify their proposal. However, based on a normal classification principle (essential character), the Secretariat could support a 50% limit on sugar for products of Chapter 4.

III. CONCLUSION

13. The Committee is invited to examine the proposal by Cameroon set out above, taking into account the comments made by the Secretariat above.
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